

INTELLECTUAL LAW

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February 15, 2022

VIA ECF

Honorable Magistrate Judge James M. Wicks
United States District
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: **MICHAEL AUSTIN v. HESHAM M. ATWA, M.D.;**
HESHAM M. ATWA, PHYSICIAN, P.C. ;
OUTSOURCE MARKETING SOLUTIONS, INC.;
BRUCE SAFRAN; and MD CONNECT, INC.
Civil Case No.: 2:21-cv-01242-LDH-JMW
Our File No 7570-4

Dear Mag. Judge Wicks:

We represent Defendants HESHAM M. ATWA, M.D.; HESHAM M. ATWA, PHYSICIAN, P.C. ; OUTSOURCE MARKETING SOLUTIONS, INC.; BRUCE SAFRAN; and MD CONNECT, INC., in the matter referenced herein above.

With deep regret, I inform this Court that I seek permission to withdraw or bring a motion to secure permission to withdraw as counsel for all Defendants in the present matter at tomorrow's conference.

I affirm and submit that I have satisfactory reasons for withdrawal under Local Civil Rule 1.4. My withdrawal from this case is appropriate under New York Rules of Professional Conduct 1.16(a)(2) and 1.16(b)(7).

As indicated during our January 24, 2022, conference, the pandemic severely affected my firm and me. Our offices shut down through the summer of 2020. Billables dropped. We have been unable to collect a number of our outstanding billables from clients who have also

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been disparately impacted by the pandemic, experiencing lay-offs, furloughs, and medical emergencies of their own. As a result, we have acquired a great deal of debt and seriously damaged our credit. Our home is in foreclosure.

My spouse Angelo Tufariello had a severe stroke. He can no longer work. Before becoming ill, he was my firm's chief financial officer, and head IP researcher. The stroke has left him severely disabled. He cannot use his right arm and hand or his right leg. He can no longer work in my firm. He is unable to attend to his medical care. He is combatting severe depression, which deeply scares me as this is not the first time we are combatting depression together. He needs constant supervision to ensure he does not fall and get hurt. I am his only care giver. In his absence, I have taken over all of his duties and responsibilities in the firm. My biggest fear is his depression.

I am also my mother's health care manager and advocate, which is quite complicated because my mom lives in Greece. She is 85 years old. She was recently diagnosed with colon cancer. I could not travel to Greece until November due to European regulations concerning US Citizens and Covid. So I have been coordinating and managing all her care on line or via phone in Greek, or in person by traveling to Greece, while at the same time caring for my spouse and trying to run my business.

On January 10, 2022, my right-hand and only paralegal Alina Orban resigned from her position. I am currently the firm's only employee. In her absence and upon review of files I realized that I must inspect each and every currently live file, to make sure that action dates, response dates, maintenance and renewal dates had been checked, reviewed and docketed. This in depth review of our current files made me realize that the professional time demands upon me together with my caregiver responsibilities and the mental challenges they present have severely handicapped my ability to represent the Defendants in this matter. I have been severely mentally distressed by these developments, and am simply unable to timely give the Defendants' case the attention it deserves without substantial hardship to myself, my family, my other clients, and the Defendants. I no longer have a paralegal, I don't have an associate and there is no one right now to manage my office or to assist with my caseload. It is for these reasons that I was unable to comply with the Court's January 24, 2022 Order to turn over documents and provide responses to Plaintiff's interrogatories.

On Friday, February 11, 2022, I discussed all of the foregoing with Plaintiffs' counsel in an effort to resolve my continued delays. I informed my clients Bruce Safran and Outsource Marketing Solutions Inc. about all of the foregoing, including the outcome of my

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discussion with Plaintiffs' counsel. I have discussed my withdrawal with them as well, and they informed me that they consent to my substitution and will search for new counsel. I anticipate that all Defendants will need a stay of these proceedings for a reasonable period in order to secure alternative counsel, and that incoming counsel will complete discovery, including filing responses and disclosures to Plaintiff's Interrogatories.

I pray that your Honor will grant me permission to withdraw and I appreciate Your Honor's understanding, patience and professional courtesies.

Respectfully Submitted,

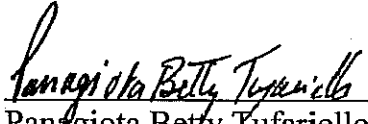

Panagiota Betty Tufariello

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CERTIFICATE OF SERVICE

I, Panagiota Betty Tufariello, hereby certify that on February 15, 2022, I caused a true and correct copy of the foregoing Letter to the Honorable Magistrate Judge Wicks to be filed and served via the court's ECF system on all parties registered to receive notice and on the parties listed above in the manner indicated.


Panagiota Betty Tufariello